

UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS

ZEPHYR MEDIA GROUP, INC.,)
an Illinois Corporation,)
Plaintiff,)
)
v.)
)
ATOMIC DIRECT LTD., an Oregon)
Corporation,)
)

COMPLAINT

NOW COMES, Zephyr Media Group, Inc. by its attorneys, Grogan Hesse & Uditsky P.C., and for its Complaint against Atomic Direct Ltd. states as follows:

INTRODUCTION

Plaintiff is in the business of placing media to advertise for its clientele. Plaintiff has had a long standing relationship with Defendant. Plaintiff has placed media for Defendant who has not paid for certain invoices relating to the media placed dating back to May of 2017. Despite repeated demands Defendant has failed to pay the outstanding invoices. Plaintiff has filed a cause of action for breach of contract and accounted stated to recover the outstanding amounts owed to it.

PARTIES

1. Zephyr Media Group, Inc., ('Zephyr') is an Illinois corporation, with its principal place of business in Evanston Illinois.

2. Atomic Direct Ltd. ("Atomic") is an Oregon corporation with its principal place of business in Portland Oregon.

JURISDICTION

3. Jurisdiction is conferred on this court pursuant to 28 U.S.C.A. § 1331 and 28 U.S.C.A. §1391.

FACTS

4. Zephyr and Atomic have been doing business together for over 10 years.

5. Zephyr is in the business of placing advertisements on behalf of its clients with various media outlets, including but not limited to television, radio, and newspapers ("media").

6. Atomic contacted Zephyr to place media on behalf of Atomic's clientele.

7. Throughout the years, Zephyr would place media for Atomic on behalf of Atomic's clientele. Zephyr and Atomic entered into an oral agreement whereby Atomic would place orders for media through email or over the phone. Zephyr would then place the media advertisements and pay the expense of the same on Atomic's behalf. After placement Zephyr would send an invoice to Atomic.

8. The invoices sent to Atomic state that they are to be paid in thirty days.

9. Atomic has failed to pay certain of Zephyr's outstanding invoices, some of which are dated in May of 2017.

10. Zephyr has repeatedly requested payment for the amounts due and owing.

COUNT II

BREACH OF CONTRACT

11. Plaintiff adopts and realleges the allegations contained in Paragraphs 1 through 10 above as if they were fully set forth herein.

12. Zephyr has complied with all conditions precedent to recovery.

13. Zephyr has fulfilled its contract with Atomic providing all the media pursuant to each purchase order.

14. In breach of the agreement with Zephyr, Atomic has failed to pay Zephyr \$301,964.55. A true and correct copy of the summary of the Atomic Open Invoices is attached as Exhibit A.

15. Based upon the foregoing, Zephyr has been damaged as a result of the aforesaid breach in the amount of \$301,964.55, plus interest.

WHEREFORE, Zephyr Media Group, Inc. prays that judgment be entered against Atomic Direct Ltd. in the amount of \$301,964.55, plus interest accrued until the date of judgment and costs herein and that execution issued thereon.

COUNT II

ACCOUNT STATED

16. Plaintiff adopts and realleges the allegations contained in Paragraphs 1 through 15 above as if they were fully set forth herein.

17. Zephyr at the request of Atomic provided media buying services on behalf of Atomic's clients in May, June, July, August and September of 2017.

18. A true and correct copy of each outstanding invoice from Zephyr to Atomic having been marked by invoice document number is attached as Exhibit B.

19. The invoices attached as Exhibit B demonstrate that an account was stated between the Plaintiff and Defendant and the balance of \$301,964.55 was found due from the Atomic to Zephyr.

20. After deducting all credits and payments, an account was stated between Zephyr and Atomic showing a balance of \$301,964.55 due to Zephyr from Atomic.

21. Zephyr has made demand upon Atomic for payment of the balance owed to it, however, the Atomic has refused and continue to refuse to make payment.

WHEREFORE, Plaintiff, ZEPHYR MEDIA GROUP, LLC, respectfully requests that this Court enter a judgment in its favor and against the Defendant ATOMIC DIRECT, LTD. in an amount to be proven at trial of at least \$301,964.55 and grant Plaintiff its cost of suit, prejudgment interest and such other and further relief as this Court shall deem fit to award.

Respectfully submitted,

ZEPHYR MEDIA GROUP, INC.

By: /s/Amy Galvin Grogan
One of its attorneys

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